



UNIVERSITY OF HAWAI'I SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Higher Education
March 17, 2015 at 2:00 p.m.

by
Jan Gouveia
Vice President for Administration
University of Hawai'i System

SB 387 SD2 – RELATING TO AFFIRMATIVE CONSENT

Chair Choy, Vice Chair Ichiyama, and Members of the Committee:

Thank you for the opportunity to submit testimony on SB 387 SD2, which mandates that the University of Hawai'i (University) adopt and implement a rather prescriptive policy and definition around affirmative consent in the context of sexual harassment and sexual violence. Last month, the University updated its sexual harassment policy to specifically address sexual assault, domestic violence, dating violence, and stalking. As such, we believe this measure is not necessary. Furthermore, we believe that from a governance and implementability standpoint, policies of this nature are more appropriately developed through the internal process and procedures of the University.

The University of Hawai'i is comprised of 10 campuses, which supports varying programs and student populations, as well as delivering diverse services and amenities to local, national, and international students. Additionally, the University employs approximately 10,000 faculty, staff and administrators that fall under collective bargaining agreements with HGEA, UHPA, UPW, or under other board policies. To that end, any systemwide policies must follow the processes and procedures of the respective collective bargaining agreements and associative state law.

As previously mentioned, the University recently updated its sexual harassment/sexual violence policy to be both fair and balanced in its form and application, with regards to all stakeholders that have an interest in an affirmative consent policy. These guidelines are specifically intended to address the requirements of the Violence Against Women Act

(VAWA). It was carefully crafted, involving months of research and systemwide committee work, to achieve a standard that supports the University's broad mission of promoting safe, healthy campus environments ,while at the same time addressing the complex and interrelated requirements of state and federal sex discrimination and sexual violence laws and regulations that cover students, employees, and third parties.

In closing, the University respectfully opposes Senate Bill 387 SD2 on the basis that it is unnecessary and duplicative at this time. Additionally, we believe that from a governance and implementability standpoint, policies of this nature are more appropriately developed through the internal process and procedures of the University.

Thank you for the opportunity to testify on Senate Bill 387 SD2.



UNIVERSITY
of HAWAII®
SYSTEM

Testimony presented to the House Committee on Higher Education

March 17, 2015 at 2:00pm

By

Farrah-Marie Gomes, Chair

SB 387, SD 2 – RELATING TO AFFIRMATIVE CONSENT

Dear Chair Choy, Vice Chair Ichiyama and Members of the Committee,

Thank you for this opportunity to provide testimony on SB 387, SD 2 that statutorily requires the University of Hawaii to act jointly with the Board of Regents to establish and enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking. My name is Farrah-Marie Gomes and I present this testimony as Chair of the University of Hawai'i President's Commission on the Status of Women (UH-CSW).

The UH-CSW supports the intent of this bill; however, we would like to take this opportunity to provide important information on this issue. On February 7, 2015 UH President Lassner signed Executive Policy 1.204 Policy and Procedural Guidelines on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking. This policy replaces the previous policy on sexual assault and reaffirms the University's commitment to ensuring a safe environment across all ten campuses and having zero tolerance for gender violence and harassment. This policy specifically addresses the issue of consent and provides a strong, clear definition of "Affirmative Consent" that the UH-CSW strongly endorses.

The UH-CSW would like to recognize the hard work that went into updating Executive Policy 1.204 to incorporate both the spirit and the most current legal requirements of the Reauthorization of the Violence Against Women Act (VAWA) of 2013 and Title IX of the Education Amendments of 1972. This policy is a result of many months of collaboration and consultation across the UH system -- including consultation with undergraduate and graduate student organizations, faculty senates, student affairs, campus administrators, UH-CSW, LGBTI commission, Title IX and EEO coordinators, all faculty and staff unions, and other stakeholders. The successful implementation of this policy will require the continued work of many, which is the reason why this systemwide consultation process is important to acknowledge.

For these reasons, the UH-CSW opposes SB 387, SD 2 and respectfully requests that the University of Hawaii be given the opportunity to implement the policy that has been developed.

Formed in 1972 at the UH Manoa campus, the UH-CSW expanded in 1986 to include faculty, staff and students appointed by the President of the University of Hawaii, with representatives from our system offices and 10 campuses across the State. The UH-CSW is committed to supporting the well-being, development, and advancement of all University women. The Commission actively promotes a working and learning environment free of sexism and discrimination through policy, advocacy and education.

This mission is achieved through serving as a conduit for information between the administration and the total University community by making recommendations to the UH President on issues that have particular relevance for women, including, but not limited to safety and security, equity, access, retention, and advancement; fostering an awareness, understanding and recognition of the potential, contributions, special challenges and many roles women play in a University community; and developing alliances with like organizations throughout the community, state, and nation.

In line with our mission, the UH-CSW pledges to fully support the University of Hawaii with implementation of Executive Policy 1.204 Policy and Procedural Guidelines on Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence and Stalking. We respectfully request your support in allowing the University to implement the updated policy in accordance with its internal processes and procedures.

Thank you for this opportunity to submit testimony.



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PO. Box 23404
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March 16, 2015

Chair Choy and the House Committee on Higher Education

Re SB 387 SD2
Testimony in Support
Hearing on March 17, 2105

Dear Rep. Choy and Committee Members:

Americans for Democratic Action is an organization devoted to the promotion of progressive public policies.

We support SB 387 SD 2 as it requires the University of Hawaii to act jointly with the board of regents to establish and enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking. Despite increased awareness of the problem of sexual assault, it continues to be a problem and in particular a problem at the University of Hawaii. While we acknowledge that affirmative consent is a policy that may be difficult to enforce at times, we think the establishment of the policy and the publicity that will surround it send a good message particularly to our young men that they need to be sure their partners are in full consent before engaging in sexual activity.

Thank you for your consideration.

Sincerely,

John Bickel
President



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR SENATE BILL 387, SENATE DRAFT 2, RELATING TO
AFFIRMATIVE CONSENT**

House Committee on Higher Education

Hon. Isaac W. Choy, Chair

Hon. Linda Ichiyama, Vice Chair

Tuesday, March 17, 2015, 2:00 PM

State Capitol, Conference Room 309

Honorable Chair Choy and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 300 local members. On behalf of our members, we offer this testimony in strong support of SB 387, SD2, relating to affirmative consent.

In its 2010 Sexual/Relationship Violence Survey, the University of Hawai'i found that 54 female UH-Manoa students noted being raped or sexually assaulted out of a sample size of 565 respondents, an approximately 10 percent per-population average, which comports with national averages. Out of 2,700 respondents, though, only 9 percent of students who noted sexual assault during their time at UH actually reported it, while just 7 percent who said they were raped reported the incidents. Moreover, in 2014, UH-Manoa was named one of 55 colleges under federal scrutiny for its handling of sexual assault and gender-based violence. Roughly 1 in 4 female students around the country are likely to be sexually assaulted as undergraduates, according to national figures, with the Department of Justice finding that 80 percent of campus rapes went unreported between 1995 and 2013.

Enacting a "yes means yes" policy for UH campuses—all of which were declared as "rape free zones" in 2005—will encourage university administrators to take a vigorous stand against sexual assault. While critics argue that "yes means yes" policies are difficult to enforce, the safety of our students demands action. This bill will not "turn people into unwitting rapists," as *Reason Magazine* argued, but would instead establish clear boundaries for what does not qualify as consent for a sexual encounter, including intoxication, pharmaceutical impairment, and sleep. Strange as it may seem to elucidate such limits in law, college students, today, are routinely faced with situations in which expressions of voluntary agreement to sexual conduct are unsolicited or disregarded. In a "no means no" juridical setting, the burden of proof falls on the sex assault victim to prove that s/he has been assaulted, with cases often devolving into "he said, she said"

debates. While this bill will not resolve all ambiguities in determining whether or not verbal or nonverbal communication of consent was obtained, it will create a victim-centered approach to sexual assault cases, whereby the victim's medical and psychological needs are the first priority of administrators. Perhaps most importantly, this bill mandates the provision of information regarding sexual assault counseling to potential victims, exactly the kind of services needed to make victims feel safe and incentivize reporting. Of equal significance is this bill's emphasis that consent "may be revoked at any time," meaning that consent must be maintained throughout a sexual act. Thus, a victim for whom a "kiss was just a kiss" will be protected from having the initial physical gesture used as evidence that "s/he wanted it," a particularly insidious and common way of shaming victims into silence.

Passionate trysts will not be criminalized under this law. If both or all partners to sexual conduct are enthusiastic about the encounter, they will have no reason to file a complaint. Some naysayers contend that one partner could feel ambivalent about the act after the fact and reinterpret the act as assault, but this is, yet again, little more than a hyperbolic attempt to blame victims for their assaults. According to the Department of Justice and City University of New York School of Law dean Michelle Anderson, false rape accusations occur at a rate of merely 2 percent, a similar rate of false accusations for other violent crimes. Therefore, it is unlikely that this or any other anti-rape measure will lead to increased persecutions of innocent students.

Could a student infer consent from a prospective sexual partner pulling them down on a dorm room bed and motioning to remove their clothes? Perhaps. In light of the high rate of sexual assaults on our campuses, however, isn't it more important to protect against sexual violence? More simply, does it hurt our students to ask? We would strongly answer, "no." We hope that you do the same.

Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

March 15th, 2015

To:

Senator Gilbert S.C. Keith-Agaran,
Chair Senator Maile S.L. Shimabukuro,
Vice Chair Members of the Senate Committee on Judiciary and Labor
Senator Brian T. Taniguchi,
Chair Senator Lorraine R. Inouye,
Vice Chair Members of the Senate Committee on Higher Education and the Arts

From: Taylor Campbell

Re: Testimony in Support, SB 387, Relating to Affirmative Consent

Thank you for the opportunity to testify in strong support of SB 387. I write to you with experience as both a young woman and a student currently attending UH Manoa. As students we hear various stories from our friends and classmates of sexual assault and gender discrimination on campus. If you search "UH Manoa" and "Sexual Assault" you will see numerous reports of incidents and even trials in progress. What's most alarming is that this is a minuscule representation of what happens on campus, as most occurrences go unreported.

Earlier this semester as I walked my friend home from a UH event she hesitantly told me about a boy she considered to be a friend forcing himself on her the weekend before. She had drank too much at a party and he told her he'd take her home. Instead he took advantage of her inebriated state and sexually assaulted her.

Unfortunately this isn't an isolated story among women on the UH campus. Many of us have had experiences with sexual assault or harassment on campus or at school sanctioned events. The majority of us don't speak up due to situations in the past that have gone badly and/or fear of academic, social, or other negative repercussions. I support this bill because it would help the women on our campus feel that much safer. This bill would establish protocols that would help many women feel protected and taken seriously when they choose to come forward.

While I couldn't make my friend report what happened to her, I encouraged her to seek personal justice and get to closure. Ultimately all I could do was be there for her. I don't think I've ever felt more helpless in a situation and couldn't begin to imagine how scared and violated she felt. She was terrified that had she come forward she would be further victimized and the boy would go unpunished. I cannot express how important this bill is to me, my fellow classmates, and the future students of UH Manoa. As it is, our campus does not feel safe. I look forward to the day when stories of assault and gender discrimination are no longer usual. This bill would be an incredible initiative towards outlining consent and protecting victims. I completely support SB 387.

Thank you,
Taylor Campbell

ichiyama2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 1:31 PM
To: HEDtestimony
Cc: sfcris@hawaii.edu
Subject: *Submitted testimony for SB387 on Mar 17, 2015 14:00PM*

SB387

Submitted on: 3/16/2015

Testimony for HED on Mar 17, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Sandrick Cristobal	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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ichiyama2-Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 11:38 PM
To: HEDtestimony
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for SB387 on Mar 17, 2015 14:00PM

SB387

Submitted on: 3/15/2015

Testimony for HED on Mar 17, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

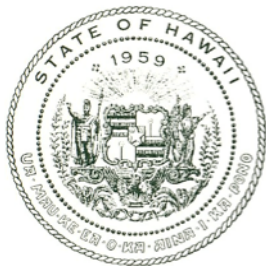
Comments: As a student at UH, I stand in strong support of this bill and I urge you to vote affirmatively to move this bill forward to the full legislature. Mahalo for the opportunity to testify in support of this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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March 16, 2015

To: Representative Isaac W. Choy, Chair
Representative Linda Ichiyama, Vice Chair
Members of the House Committee on Higher Education

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 387, SD2, Relating to Affirmative Consent

Thank you for hearing SB 387, SD2, and for this opportunity for the Commission to testify in strong support of SB 387, SD2 which would mandate that the University of Hawaii implement an affirmative consent standard and policy for purposes of dealing with sexual assault cases, systemwide. Additionally, SB 387, SD2 contains important components, including increased sexual assault prevention and education, increased crisis intervention services, and procedural protections for both victims and the accused.

800 colleges and universities nationwide have already adopted affirmative consent policies, according to the National Center for Higher Education Risk Management. While California is the only state that has implemented a statewide law, currently 10 other states in the nation are considering affirmative consent legislation. Other universities that have implemented this policy report that an affirmative consent policy improves the campus climate. Further, victims feel more inclined to report knowing that their character, clothing, alcohol intake, or other irrelevant data about their personal life will not be called into question in order to determine whether consent was given.

Consent, viewed from a “no” standard, does not accurately capture the reality of how consent plays out in actual relationships. Consent and sexual activity, occur on a continuum. Simply because a person consents to one sexual act, obviously does not mean that he or she is consenting to all sexual acts. An affirmative consent standard allows for healthy discussion, constant checks on behavior, and requests for affirmation that there is actual consent. This bill removes ambiguity by providing that consent is characterized by “affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time.” In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent. This is especially important considering the number of sexual assaults that occur after a victim has been intoxicated or drugged. This standard is consistent with Hawaii law which provides that an incapacitated individual is incapable of consenting.

Historically, victim service providers and representatives from the women’s community have largely been unable to consult and provide guidance on policies regarding gender based violence on our college campuses in Hawaii. To that end, the Commission supports the creation of a task force on affirmative consent and other areas of gender based violence. The Commission would appreciate an opportunity to consult and coordinate a community based response, grounded in national best practices, to better respond to crimes against women on UH campuses. The Commission requests that any type of task force meet at a minimum of 12 times throughout the year, with an end of year report to the legislature. Thank you for this opportunity to provide testimony in support of this important policy.



February 25, 2015

LATE

To: Representative Isaac Choy, Chair
Representative Linda Ichiyama, Vice Chair and
Members of the Committee on Higher Education

From: Jeanne Y. Ohta, Co-Chair

RE: SB 387 SD2 Relating to Affirmative Consent
Hearing: Tuesday, March 17 2015, 2:00 a.m., Room 309

POSITION: Strong Support

The Hawai'i State Democratic Women's Caucus (HSDWC) writes in strong support of SB 387 SD2 Relating to Affirmative Consent which would require the University of Hawaii system to act jointly with the Board of Regents to establish and to enforce an affirmative consent standard for all policies and protocols relating to sexual assault, domestic violence, dating violence, and stalking.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls it is because of this mission that that the caucus strongly supports this measure.

HSDWC is concerned about the lack of effort, lack of urgency, and overall foot dragging by the University of Hawaii system to comply with Title IX and VAWA requirements; and by the UH administration's excuse that they lack resources to follow these laws. UH is responsible for maintaining a safe environment free from violence for all students. This requirement is not new and must be implemented, there is no room for excuses.

California has recently implemented an affirmative consent standard for campus procedures involving sexual assault; and 9 other states are actively considering legislation. In addition, 800 colleges and universities across the nation already have adopted affirmative consent policies.¹

Affirmative consent provides for a clearer definition of what sex assault is and provides for less ambiguity. Further, it provides that consent is determined by an "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent, and consenting to one sexual act does not mean consenting to all sexual acts.

¹ National Center for Higher Education Risk Management
Hawai'i State Democratic Women's Caucus, 404 Ward Avenue Suite 200, Honolulu, HI 96814
hidemwomen@gmail.com

Establishing an affirmative consent policy can lead to healthier campus climate and allow more victims to come forward if they know their personal life and credibility will not be called into question when determining whether consent occurred.

Other universities report that this policy has improved campus climate and changed the dialogue about healthy relationships and consent.

According to campus reports issued in compliance with the Clery Act, UH Manoa reported 11 forcible sex offenses in 2012. Systemwide, the number was 11. In 2011, Manoa reported 12 assaults and systemwide there were 16 reported. The Clery Act requires annual reporting of statistics for various criminal offenses including sexual assault, however, Kauai and Leeward campuses did not issue reports the last two years.

The Caucus has been concerned about violence against women on the UH campuses for almost a decade and has advocated for the improvement of campus policies and procedures. We have found the UH administration to be unresponsive to our concerns. This is why we strongly support a legislative mandate to hold the UH administration accountable for implementing needed policies and procedures and to ensure that real progress is made. We believe that despite the recent revelation of a brand new policy, and because of the lack of progress over the last decade, this legislation is necessary to keep the UH system moving forward with the development and implementation of policies.

We ask that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

LATE

COMMITTEE ON HIGHER EDUCATION

Rep. Isaac W. Choy, Chair

Rep. Linda Ichiyama, Vice Chair

DATE: Tuesday, March 17, 2015

TIME: 2:00 PM

PLACE: Conference Room 309

Aloha Chair Choy, Vice Chair Ichiyama and members.

STRONG SUPPORT FOR SB 387 SD2 requiring affirmative consent

We in the Coalition have long supported initiatives to empower women and girls at work, at home and at school. The most fundamental condition for that empowerment is the right to physical and emotional safety. Yet sadly violence against women and girls is still pervasive in our society. Our institutions seem to be riddled with it and our universities are no exception. The University of Hawaii is under investigation, along with many others, for not complying with the Violence Against Women Act, that dovetails with the provisions of Title IX.

In our University, sex assault is under-reported, mishandled and too often swept under the rug in order for the system to save face. The fact that they are now in the process of developing an affirmative consent policy does not obviate the need for this law as the University has only recently taken this problem seriously and then only because they are under Title IX audit.

There is precedent. One state, California, has required its university system to implement an affirmative consent standard for campus procedures involving sexual assault as a step towards moving the onus away from the victim. Nine other states are actively considering legislation. We should move forward with this too.

"Affirmative Consent" makes a clearer definition of what sex assault actually is. What this standard does is make "consent" less ambiguous. Specifically, it provides that consent be determined by an "affirmative, conscious and voluntary agreement to engage in sexual activity that may be revoked at any time." In addition, it specifies that silence, or a lack of protest or resistance, does not constitute consent, and consenting to one sexual act does not mean consenting to all sexual acts. This is important since perpetrators often cite lack of protest as evidence that she (or he) wanted it.

If this bill becomes law we can hope for a healthier campus climate that would result in more victims coming forward if they know their personal life and credibility will not be called into question when determining whether consent occurred.

Moreover, there is precedent for "yes means yes." 800 colleges and universities across the nation already have adopted affirmative consent policies, according to the National Center for Higher Education Risk Management. Universities that have adopted this standard report that this policy has improved campus climate and changed the dialogue about healthy relationships and consent.

Finally, why do we need a law? Well, the last several decades show that our University system has been unmotivated to meaningfully address the problem of rape on campus. Therefore, legislative mandates are needed to propel the University system forward and make it a safe place in which young women (and men) can achieve their full potential.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsfreed@gmail.com



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

LATE

Executive Director
Adriana Ramelli

DATE: March 17, 2015

Advisory Board

TO: The Honorable Isaac Choy, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Higher Education

President
Mimi Beams

Vice President
Peter Van Zile

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

RE: Testimony in Support of Senate Bill 387, Senate Draft 2
Relating to Affirmative Consent

Marilyn Carlsmith

Senator
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Gidget Ruscetta

Joshua A. Wisch

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center, a program of Kapi'olani Medical Center for Women & Children, in support of Senate Bill 387, Senate Draft 2 (S.B. 387, S.D. 2). We further respectfully request your consideration of our additional comments concerning this measure.

S.B. 387, S.D. 2 would strengthen protections for survivors of sexual assault on college campuses within the University of Hawai'i system (UH) by placing the force of law behind adoption of an affirmative consent standard for the evaluation of complaints. S.B. 387, S.D. 2 would further require UH to implement a comprehensive prevention and outreach program; adopt survivor-centered sexual assault response policies and protocols; and form partnerships with on campus and community-based organizations to assist survivors with connecting to services.

Sexual assault remains epidemic on college campuses: 1 in 5 women and 1 in 16 men are sexually assaulted during college. Moreover, 90% of these assaults go unreported and, of reported assaults, only 30% of perpetrators who are found guilty are expelled. This has triggered sweeping federal countermeasures, including strict annual reporting requirements. Notably, UH was recently placed under investigation by the U.S. Department of Education for possible violations of federal law over the handling of sexual violence complaints.

Despite nationwide focus on this issue, schools continue to struggle to implement policies and programs to prevent sexual assault and adequately support survivors. This is unacceptable, as schools have a duty to provide safety and security, allowing students to pursue their educational goals free from the devastating physical, emotional, and social effects of sexual assault.

We note that UH recently published a revised written policy concerning sexual assault which includes a definition of affirmative consent. While this is an important and commendable first step, the SATC respectfully points out that a change to the written

policies alone does not equate to successful adoption of the affirmative consent standard. Rather, adoption must be demonstrated by the standard's consistent application in practice. S.B. 387, S.D. 2 would place the force of statutory law behind UH's commitment to implement the affirmative consent standard when handling complaints of sexual assault.

We also emphasize that S.B. 387, S.D. 2 is much more than a requirement that UH implement the affirmative consent standard. Rather, this measure outlines a comprehensive, integrated prevention and response system for sexual violence on UH campuses that does not currently exist:

- S.B. 387, S.D. 2 requires that UH implement a comprehensive outreach and prevention program, educating UH students and staff members about the affirmative consent standard and UH's overall sexual assault policy. This ensures that all members of the UH community will be aware that one standard for determining if consent exists shall apply, system wide. The education and training elements of the revised policy recently published by UH would not satisfy this crucial requirement.
- S.B. 387, S.D. 2 encourages survivors to report assaults and obtain necessary medical, emotional and legal help. It specifically requires that UH adopt survivor-centered policies and procedures, including, but not limited to, standard protocols for receiving and investigating complaints; retaining services to care for survivors; coordination with law enforcement; participation of victim advocates and other support persons; investigation of allegations that alcohol, drugs, or hazing were involved in an incident; protections for individuals who participate in the process as complainants or witnesses; and trauma-informed training of school staff. The revised policy recently published by UH does not include these survivor-centered protections.

In order to ensure seamless implementation of these prevention and response measures, the SATC also supports a further amendment to S.B. 387, S.D. 2, to create a task force comprised of representatives from UH and from government and community stakeholders for the purpose of reviewing UH's current policies and sexual violence response infrastructure, and recommending appropriate and necessary changes.

By ensuring UH's implementation of an affirmative consent standard in practice, and by empowering survivors to report sexual assaults and obtain help, your support of S.B. 387, S.D. 2 safeguards Hawai'i's college students and takes an important step towards guaranteeing them a secure and respectful learning environment.

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1566 Wilder Avenue
Honolulu, Hawai'i 96822
P: (808) 941-2231
F: (808) 945-9478

Kokokahi YWCA
45-035 Kane'ohe Bay Drive
Kane'ohe, Hawai'i 96744
P: (808) 247-2124
F: (808) 247-6124

Laniākea YWCA
1040 Richards Street
Honolulu, Hawai'i 96813
P: (808) 538-7061
F: (808) 521-8416

www.ywcaoahu.org

March 16, 2015

To: Rep. Isaac Choy, Chair
Rep. Linda Ichiyama, Vice Chair
Members of the House Committee on Higher Education

From: Noriko Namiki
YWCA of O'ahu

Re: Support for SB387 SD2– Relating to Affirmative Consent

Aloha Chair Choy, Vice Chair Ichiyama and members of the committee:

My name is Noriko Namiki, Chief Executive Officer of the YWCA of O'ahu, testifying in support of SB387 SD2, Relating to Affirmative Consent, which would mandate that the University of Hawaii implement an affirmative consent standard and policy for purposes of dealing with sexual assault cases, system-wide. Additionally, SB387 SD2 contains important components, including increased sexual assault prevention and education, increased crisis intervention services, and procedural protections for both victims and the accused.

Although California is the only state that has implemented a statewide law, Hawaii and ten other states in are considering affirmative consent legislation. Of the more than 800 universities and colleges that have implemented this policy, the majority report that an affirmative consent policy improves the campus climate. Mandating an affirmative consent policy across all UH campuses would provide better understanding of the university's policies and would even out the disparate process in which different campuses approach sexual assault cases.

The University of Hawaii is still under a Title IX investigation by the United States Department of Education, Office of Civil Rights, along with more than 50 other universities nationwide. When the Commission began discussions with the UHM about the need for Title IX and VAWA compliance, a robust training process, more hiring of Title IX staff, education on sexual violence and dating violence during new student orientation, and the availability of campus crisis services for students who experience sexual violence, the discussion was slow and much was promised in terms of compliance and movement forward.

Despite the passage of Title IX of the Education Amendments of 1972, which protects individuals from discrimination based on sex in education programs or activities that receive Federal financial assistance, and the 2013 reauthorization of the Violence Against Women Act ("VAWA"), which expands protections for victims of domestic abuse and sexual assault, it is still shocking to see that even today one in five women will be the victim of rape or attempted rape. For women who attend college, the statistics are grimmer with one in four college women reporting rape or attempted rape since their 14th birthday.

In 2012, UH Manoa reported 11 forcible sex offenses in 2012 according to a campus report issued in compliance with the Clery Act, which provides guidelines for campus safety and security reporting. System-wide, the number was 11 in 2012. In 2011, UH Manoa reported 12 assaults with 16 reported system-wide.

The Clery Act requires annual reporting of statistics for various criminal offenses including sexual assault, however, Kauai and Leeward campus did not issue reports for the last two years.

Although Title IX and the changes to VAWA, specifically to Section 304 – that Campus Sexual Violence Act Provision – which imposes new rules that demand institutional overhaul and a renewed commitment to compliance at universities like UH which receive federal funding, UH students continue to face sexual violence on campus. We are gravely concerned that not only are sexual crimes under-reported system-wide, they are going unreported and perpetrators are getting away unpunished.

Since its founding in 1900, the YWCA of O‘ahu exists to cultivate opportunities for women’s and girls’ growth and leadership, to help them create fulfilling lives for themselves and their families, and facilitating social change with positive economic impact for their communities.

On behalf of the YWCA of O‘ahu, I humbly urge members of this committee to pass this legislation.

With Aloha,

A handwritten signature in black ink, appearing to read "Noriko Namiki".

Noriko Namiki
Chief Executive Officer
YWCA of O‘ahu